

CHAPTER 39

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 21-1106

BY REPRESENTATIVE(S) Duran and Mullica, Amabile, Arndt, Bacon, Benavidez, Bernett, Bird, Caraveo, Cutter, Froelich, Gonzales-Gutierrez, Gray, Herod, Hooton, Jodeh, Kennedy, Kipp, Lontine, Michaelson Jenet, Ricks, Sirota, Sullivan, Valdez A., Woodrow;
also SENATOR(S) Bridges and Hansen, Buckner, Danielson, Fenberg, Fields, Ginal, Gonzales, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Story, Winter.

AN ACT**CONCERNING MEASURES TO SECURE FIREARMS TO PREVENT USE BY PERSONS NOT LAWFULLY PERMITTED TO POSSESS FIREARMS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Short title. The short title of this act is the "Promoting Child Safety Through Responsible Firearm Storage Act".

SECTION 2. Legislative declaration. (1) The general assembly finds and declares that:

(a) Responsibly and securely storing firearms reduces firearm fatalities among youth and decreases the likelihood of incidents resulting in harm to children, including school shootings, youth suicides, and other violent tragedies; and

(b) Promoting safe and responsible firearm storage practices furthers the goal of protecting children and communities from interpersonal violence, unintentional shootings, and self-harm.

SECTION 3. In Colorado Revised Statutes, 18-12-101, **add** (1)(f.5) and (1)(g.5) as follows:

18-12-101. Peace officer affirmative defense - definitions. (1) As used in this article 12, unless the context otherwise requires:

(f.5) "LOCKING DEVICE" MEANS A DEVICE THAT PROHIBITS THE OPERATION OR

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

DISCHARGE OF A FIREARM AND THAT CAN ONLY BE DISABLED WITH THE USE OF A KEY, COMBINATION, OR BIOMETRIC DATA.

(g.5) "PERSONALIZED FIREARM" MEANS A FIREARM THAT HAS, AS PART OF ITS ORIGINAL MANUFACTURE, INCORPORATED DESIGN TECHNOLOGY THAT ALLOWS THE FIREARM TO BE FIRED ONLY BY THE AUTHORIZED USER AND PREVENTS ANY OF THE SAFETY CHARACTERISTICS OF THE FIREARM FROM BEING READILY DEACTIVATED BY ANYONE OTHER THAN THE AUTHORIZED USER. THE TECHNOLOGY LIMITING THE FIREARM'S OPERATIONAL USE MAY INCLUDE, BUT IS NOT LIMITED TO, FINGERPRINT VERIFICATION, MAGNETIC ENCODING, RADIO FREQUENCY TAGGING, AND OTHER AUTOMATIC USER IDENTIFICATION SYSTEMS UTILIZING BIOMETRIC, MECHANICAL, OR ELECTRONIC SYSTEMS.

SECTION 4. In Colorado Revised Statutes, **add 18-12-114** as follows:

18-12-114. Secure firearm storage required - penalty - exceptions.

(1) FIREARMS MUST BE RESPONSIBLY AND SECURELY STORED WHEN THEY ARE NOT IN USE TO PREVENT ACCESS BY UNSUPERVISED JUVENILES AND OTHER UNAUTHORIZED USERS. A PERSON RESPONSIBLY AND SECURELY STORES A FIREARM WHEN:

(a) THE PERSON CARRIES THE FIREARM ON HIS OR HER PERSON OR WITHIN SUCH CLOSE PROXIMITY THERETO THAT THE PERSON CAN READILY RETRIEVE AND USE THE FIREARM AS IF THE PERSON CARRIED THE FIREARM ON HIS OR HER PERSON;

(b) THE FIREARM IS KEPT IN A LOCKED GUN SAFE OR OTHER SECURE CONTAINER OR IN A MANNER THAT A REASONABLE PERSON WOULD BELIEVE TO BE SECURE AND A JUVENILE OR RESIDENT OF THE PREMISES WHO IS INELIGIBLE TO POSSESS A FIREARM DOES NOT HAVE ACCESS TO THE KEY, COMBINATION, OR OTHER UNLOCKING MECHANISM NECESSARY TO OPEN THE SAFE OR CONTAINER;

(c) THE PERSON PROPERLY INSTALLS A LOCKING DEVICE ON THE FIREARM AND A JUVENILE OR RESIDENT OF THE PREMISES WHO IS INELIGIBLE TO POSSESS A FIREARM DOES NOT HAVE ACCESS TO THE KEY, COMBINATION, OR OTHER UNLOCKING MECHANISM NECESSARY TO REMOVE THE LOCKING DEVICE; OR

(d) THE FIREARM IS A PERSONALIZED FIREARM AND THE SAFETY CHARACTERISTICS OF THE FIREARM ARE ACTIVATED.

(2)(a) A PERSON COMMITS UNLAWFUL STORAGE OF A FIREARM WHEN THE PERSON FAILS TO RESPONSIBLY AND SECURELY STORE A FIREARM, AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION, UPON ANY PREMISES THAT THE PERSON OWNS OR CONTROLS AND THE PERSON KNOWS OR REASONABLY SHOULD KNOW THAT:

(I) A JUVENILE CAN GAIN ACCESS TO THE FIREARM WITHOUT THE PERMISSION OF THE JUVENILE'S PARENT OR GUARDIAN; OR

(II) A RESIDENT OF THE PREMISES IS INELIGIBLE TO POSSESS A FIREARM PURSUANT TO STATE OR FEDERAL LAW.

(b) UNLAWFUL STORAGE OF A FIREARM IS A CLASS 2 MISDEMEANOR.

(c) IT IS AN AFFIRMATIVE DEFENSE TO THE OFFENSE OF UNLAWFUL STORAGE OF A FIREARM THAT A JUVENILE GAINED POSSESSION OF, AND USED, THE FIREARM FOR THE PURPOSE OF EXERCISING THE RIGHTS CONTAINED IN SECTION 18-1-704 OR 18-1-704.5 OR IN DEFENSE OF LIVESTOCK.

(3) THIS SECTION DOES NOT APPLY TO STORING AN ANTIQUE FIREARM, AS DEFINED IN 18 U.S.C. SEC. 921 (a)(16), AS AMENDED, OR A CURIO OR RELIC, AS DEFINED IN 27 CFR 478.11, AS AMENDED.

SECTION 5. In Colorado Revised Statutes, **add** 18-12-405 as follows:

18-12-405. Locking device required - penalty. (1) (a) EVERY LICENSED GUN DEALER, AS DEFINED IN SECTION 18-12-506, SHALL PROVIDE WITH EACH FIREARM SOLD OR OTHERWISE TRANSFERRED A LOCKING DEVICE CAPABLE OF SECURING THE FIREARM.

(b) THIS SUBSECTION (1) DOES NOT APPLY TO THE TRANSFER OF AN ANTIQUE FIREARM, AS DEFINED IN 18 U.S.C. SEC. 921 (a)(16), AS AMENDED, OR A CURIO OR RELIC, AS DEFINED IN 27 CFR 478.11, AS AMENDED.

(2) EVERY LICENSED GUN DEALER SHALL POST, IN A CONSPICUOUS LOCATION ON ITS PREMISES AND AT ANY OTHER LOCATION AT WHICH THE DEALER SELLS A FIREARM, EITHER THE NOTICE DEVELOPED AS PART OF THE FIREARMS SAFE STORAGE EDUCATION CAMPAIGN DESCRIBED IN SECTION 25-1-131 (2) OR THE FOLLOWING NOTICE, IN WRITING, ON A PRINTED CARD, WITH EACH LETTER AT A MINIMUM OF ONE INCH IN HEIGHT:

NOTICE

UNLAWFUL STORAGE OF A FIREARM MAY RESULT IN IMPRISONMENT OR FINE.

(3) A LICENSED GUN DEALER THAT VIOLATES THIS SECTION IS GUILTY OF AN UNCLASSIFIED MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS.

SECTION 6. In Colorado Revised Statutes, 13-3-101, **add** (16) as follows:

13-3-101. State court administrator - report - definitions - repeal. (16) (a) ON OR BEFORE JULY 31, 2022, AND ON OR BEFORE EACH JULY 31 THEREAFTER, THE STATE COURT ADMINISTRATOR SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY THAT INCLUDES THE FOLLOWING:

(I) THE NUMBER OF CHARGES BROUGHT IN EACH JUDICIAL DISTRICT FOR UNLAWFUL STORAGE OF A FIREARM PURSUANT TO SECTION 18-12-114 IN THE PRIOR STATE FISCAL YEAR AND THE DISPOSITION OF THOSE CHARGES; AND

(II) THE NUMBER OF CHARGES BROUGHT IN EACH JUDICIAL DISTRICT FOR A VIOLATION OF SECTION 18-12-405 IN THE PRIOR STATE FISCAL YEAR AND THE DISPOSITION OF THOSE CHARGES.

(b) THIS SUBSECTION (16) IS REPEALED, EFFECTIVE DECEMBER 31, 2024.

SECTION 7. In Colorado Revised Statutes, **add 25-1-131** as follows:

25-1-131. Firearms safe storage education campaign. (1) (a) THE OFFICE OF SUICIDE PREVENTION WITHIN THE DEPARTMENT SHALL INCLUDE ON A PUBLIC PAGE OF THE DEPARTMENT'S WEBSITE INFORMATION ABOUT THE FOLLOWING:

(I) THE UNLAWFUL STORAGE OF A FIREARM OFFENSE DESCRIBED IN SECTION 18-12-114;

(II) THE PENALTIES FOR AN OFFENSE RELATED TO PROVIDING A HANDGUN TO A JUVENILE OR ALLOWING A JUVENILE TO POSSESS A FIREARM IN VIOLATION OF SECTION 18-12-108.7; AND

(III) THE REQUIREMENT THAT A LICENSED GUN DEALER PROVIDE A LOCKING DEVICE WITH EACH FIREARM TRANSFERRED, AS DESCRIBED IN SECTION 18-12-405 (1).

(b) ANY INFORMATION DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION POSTED ON THE DEPARTMENT'S WEBSITE MUST BE IN BOTH ENGLISH AND SPANISH.

(c) THE OFFICE OF SUICIDE PREVENTION SHALL INCLUDE REFERENCES TO THE OFFENSES LISTED IN SUBSECTION (1)(a) OF THIS SECTION AND DIRECTION TO THE DEPARTMENT'S WEBSITE FOR MORE INFORMATION ABOUT THOSE OFFENSES IN MATERIALS PROVIDED TO THE FOLLOWING:

(I) LICENSED GUN DEALERS, SHOOTING RANGES, AND SAFETY INSTRUCTORS; AND

(II) HEALTH CARE PROVIDERS, INCLUDING FACILITIES LICENSED OR CERTIFIED BY THE DEPARTMENT PURSUANT TO SECTION 25-1.5-103.

(2) THE DEPARTMENT SHALL DEVELOP A NOTICE INTENDED TO BE DISPLAYED ON THE PREMISES OF A LICENSED GUN DEALER, AND DESIGNED TO BE PRINTED WITH EACH LETTER AT A MINIMUM OF ONE INCH IN HEIGHT, THAT INFORMS FIREARMS PURCHASERS THAT UNLAWFUL STORAGE OF A FIREARM MAY RESULT IN IMPRISONMENT OR FINE. THE DEPARTMENT SHALL MAKE ELECTRONIC COPIES OF THE NOTICE PUBLICLY AVAILABLE FOR DOWNLOAD FROM ITS WEBSITE WITHOUT CHARGE.

(3) (a) SUBJECT TO AVAILABLE MONEY, INCLUDING APPROPRIATIONS OR GIFTS, GRANTS, OR DONATIONS RECEIVED PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT A FIREARMS SAFE STORAGE EDUCATION CAMPAIGN, REFERRED TO IN THIS SECTION AS THE "EDUCATION CAMPAIGN", TO EDUCATE FIREARMS OWNERS, FIREARMS PURCHASERS, LICENSED GUN DEALERS, SHOOTING RANGES, AND SAFETY INSTRUCTORS ABOUT SAFE STORAGE OF FIREARMS AND STATE REQUIREMENTS RELATED TO FIREARMS SAFETY AND STORAGE. THE DEPARTMENT SHALL CONSULT WITH THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY IN DEVELOPING AND IMPLEMENTING THE EDUCATION CAMPAIGN.

(b) AS PART OF THE EDUCATION CAMPAIGN, THE DEPARTMENT MAY:

(I) DEVELOP AND PROVIDE MATERIALS TO LOCAL LAW ENFORCEMENT AGENCIES

TO ASSIST THOSE AGENCIES WITH EDUCATING THE PUBLIC ABOUT SAFE STORAGE OF FIREARMS AND STATE REQUIREMENTS RELATED TO FIREARMS SAFETY AND STORAGE;

(II) DEVELOP AND PROVIDE MATERIALS TO HEALTH CARE PROVIDERS TO ASSIST PROVIDERS WITH EDUCATING THE PUBLIC ABOUT SAFE STORAGE OF FIREARMS AND STATE REQUIREMENTS RELATED TO FIREARMS SAFETY AND STORAGE; AND

(III) PROVIDE INFORMATION ABOUT PROGRAMS THAT ASSIST FIREARMS OWNERS WITH THE COST OF PURCHASING FIREARMS LOCKING DEVICES, GUN SAFES, OR OTHER SECURE FIREARMS STORAGE CONTAINERS, INCLUDING PROGRAMS THAT PROVIDE FREE OR REDUCED-PRICE LOCKING DEVICES.

(c)(I) AS PART OF THE EDUCATION CAMPAIGN, THE DEPARTMENT SHALL PROVIDE INFORMATION ON ITS WEBSITE ABOUT COMMUNITY PROGRAMS THAT ALLOW FIREARMS OWNERS TO VOLUNTARILY AND TEMPORARILY STORE A FIREARM AT A SECURE LOCATION OUTSIDE OF THE HOME, INCLUDING A FIREARMS RETAILER, GUN RANGE, OR LAW ENFORCEMENT AGENCY.

(II) THE DEPARTMENT MAY PROVIDE ASSISTANCE TO ANY LOCAL ENTITY THAT FACILITATES A PROGRAM DESCRIBED IN THIS SUBSECTION (3)(c).

(d) IN FURTHERANCE OF THE GOALS OF THE EDUCATION CAMPAIGN, THE DEPARTMENT MAY USE TELEVISION MESSAGING, RADIO BROADCASTS, PRINT MEDIA, DIGITAL STRATEGIES, OR ANY OTHER FORM OF MESSAGING DEEMED APPROPRIATE BY THE DEPARTMENT.

(4) THE DEPARTMENT MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS, INCLUDING IN-KIND DONATIONS, FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION.

(5) IN FISCAL YEARS 2020-21, 2021-22, AND 2022-23, THE GENERAL ASSEMBLY SHALL NOT APPROPRIATE MONEY FROM THE GENERAL FUND FOR THE PURPOSES OF THIS SECTION. NOTWITHSTANDING ANY PROVISION OF SECTION 24-75-1305, IN FISCAL YEAR 2023-24 AND ANY SUBSEQUENT FISCAL YEAR, THE GENERAL ASSEMBLY MAY APPROPRIATE MONEY FROM THE GENERAL FUND FOR THE PURPOSES OF THIS SECTION.

SECTION 8. Effective date - applicability. This act takes effect July 1, 2021, and applies to offenses committed on or after said date.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: April 19, 2021